## EXHIBIT 12

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Page 1
1
    UNITED STATES DISTRICT COURT
3
    SOUTHERN DISTRICT OF NEW YORK
    _____X
    AUSTIN FENNER and
6
    IKIMULISA LIVINGSTON,
7
                  Plaintiffs,
                                   09 Civ. 9832
               v .
10
                                   (BSJ) (RLE)
11
    NEWS CORPORATION, NYP HOLDINGS,
12
    INC. d/b/a THE NEW YORK POST
13
    and DAN GREENFIELD and
14
    MICHELLE GOTTHELF,
15
                  Defendants.
16
    _____X
17
18
                DEPOSITION OF AUSTIN FENNER
19
                   New York, New York
20
                    January 11, 2012
21
22
   Reported by:
    MARY F. BOWMAN, RPR, CRR
23
24
  JOB NO. 45411
25
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1	Page 18		Page 19
1	FENNER	1	FENNER
2	recall any that pertained to NewsCorp. as	2	Q. Who did you meet with when you were
3	opposed to the Post?	3	hired from NewsCorp.?
	A. There were so many documents, it	4	A. I can't recall right now, but I
4	was a blizzard of paper. I can't recall	5	believe the training manuals I viewed might
5		6	have said NewsCorp. Is that right?
6	right now which ones you are referring to.	7	* · · · · · · · · · · · · · · · · · · ·
7	Q. I'm not referring to any particular	8	Q. Did you who did you interview with?
8	document. My question is, are you aware of	9	
9	having produced any documents to your		
10	attorney that pertained to NewsCorp. as	10	<ul><li>Q. For your position at the Post?</li><li>A. Dan Colarusso.</li></ul>
11	opposed to the Post?	11 12	
12	MR. THOMPSON: Objection, asked and	13	`
13	answered.	1	Post, right?
14	A. I gave over all the documents I	14	A. That's correct.
15	have.	15	Q. Who was his boss?
16	Q. Did any of them relate to News	16	A. Col Allan.
17	Corporation?	17	Q. The editor and chief of the New
18	A. There was a blizzard of documents.	18	York Post, right?
19	There was so many, I can't recall for me,	19	A. Correct.
20	it is all the same, it is all one, so I just	20	Q. Do you remember dealing with a
21	gave over whatever showed up.	21	human resources department?
22	Q. For you, documents relating to the	22	A. I do.
23	Post and NewsCorp. are the same thing?	23	Q. Was that the New York Post human
24	A. I was hired by NewsCorp. and the	24	resources department?
25	Post.	25	A. I believe it was.
	Page 20		Page 21
1	FENNER	1	FENNER
2	Q. So do you recall dealing with	2	Q. Was that an e-mail address that
3	anybody at NewsCorporation in connection with	3	said @NewYorkPost.com?
4	your hire?	4	A. That's correct.
5	•		
. ~	A. I remember dealing with Amy	5	
	A. I remember dealing with Amy Scialdone and there were several different	5 6	Q. And did you have a business card? A. I did.
6	Scialdone and there were several different	1	<ul><li>Q. And did you have a business card?</li><li>A. I did.</li></ul>
6 7	Scialdone and there were several different people at times who were leading training	6	<ul><li>Q. And did you have a business card?</li><li>A. I did.</li><li>Q. Did it say that you worked for the</li></ul>
6 7 8	Scialdone and there were several different people at times who were leading training sessions. This was within the	6 7	<ul><li>Q. And did you have a business card?</li><li>A. I did.</li><li>Q. Did it say that you worked for the</li><li>New York Post?</li></ul>
6 7 8 9	Scialdone and there were several different people at times who were leading training sessions. This was within the NewsCorporation building. I don't know	6 7 8 9	<ul><li>Q. And did you have a business card?</li><li>A. I did.</li><li>Q. Did it say that you worked for the</li><li>New York Post?</li><li>A. That's correct.</li></ul>
6 7 8 9	Scialdone and there were several different people at times who were leading training sessions. This was within the NewsCorporation building. I don't know exactly who the employer was, but I looked at	6 7 8 9 10	<ul> <li>Q. And did you have a business card?</li> <li>A. I did.</li> <li>Q. Did it say that you worked for the</li> <li>New York Post?</li> <li>A. That's correct.</li> <li>Q. Did it say that you worked for</li> </ul>
6 7 8 9 10	Scialdone and there were several different people at times who were leading training sessions. This was within the NewsCorporation building. I don't know exactly who the employer was, but I looked at it as one and the same.	6 7 8 9 10 11	<ul> <li>Q. And did you have a business card?</li> <li>A. I did.</li> <li>Q. Did it say that you worked for the</li> <li>New York Post?</li> <li>A. That's correct.</li> <li>Q. Did it say that you worked for</li> <li>NewsCorp.?</li> </ul>
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	Page 74		Page 75
1	FENNER	1	FENNER
2	within Columbia University on those stories?	2	down by the city desk?
3	A. I can't recall right now.	3	A. Yes.
4	Q. Did your editors assign you stories	4	Q. How many?
5	relating to the Columbia University	5	A. I can't recall the exact number.
6	expansion?	6	Q. Were you ever criticized by your
7	A. No, I pitched a series of stories.	7	editors for your reporting on the Columbia
8	One of those stories was about the Cotton	8	University expansion?
9	Club business, and through our work, through	9	A. I can't recall right now.
10	doing great work on that story, we helped	10	Q. Did your editors tell you that you
	this man save his business from the imminent	11	were not pitching enough stories relating to
12	domain issue that was hovering over many of	12	the Columbia University expansion?
13	the businesses in Columbia, in the Columbia	13	A. I can't recall that right now.
14	expansion plan.	14	Q. Were there any stories about the
15	Q. How many stories did you pitch	15	Columbia University expansion that were
16	relating to the Columbia University	16	developed by the city desk and assigned to
17	expansion?	17	you?
18	•	18 18	A. I can't recall if I can't recall
19	•	}	
20	Q. How many ran?	19	if you're talking about a particular story
	A. Maybe five. I can't recall the	20	that they might have assigned. I know I
21 22	exact number right now.	21	pitched many stories, that was part of my
23 23	Q. Do you know how many you pitched?	22	enterprise week.
1	A. I can't recall the exact number	23	Q. By you were hired in
24	right now.	24	approximately the middle of 2007, right?
25	Q. Were any of your stories turned	25	A. May 2007.
		3	
	Page 76		Page 77
1	FENNER	1	FENNER
2	FENNER Q. May of '07. By May of '08, you had	2	FENNER Q. What were you what does the term
2	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct?	2	FENNER Q. What were you what does the term "street reporter" mean to you?
2 3 4	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct.	2 3 4	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the
2 3 4 5	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were	2 3 4 5	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office?
2 3 4 5 6	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were your reporting duties by May of 2008? In	2 3 4 5 6	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office? Q. Yes. Is that what you were
2 3 4 5 6 7	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were your reporting duties by May of 2008? In other words, were you in the street most of	2 3 4 5 6 7	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office? Q. Yes. Is that what you were primarily were by mid '08?
2 3 4 5 6 7 8	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were your reporting duties by May of 2008? In other words, were you in the street most of the time or were you in the office most of	2 3 4 5 6	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office? Q. Yes. Is that what you were primarily were by mid '08? A. Not at all.
2 3 4 5 6 7 8	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were your reporting duties by May of 2008? In other words, were you in the street most of the time or were you in the office most of the time?	2 3 4 5 6 7	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office? Q. Yes. Is that what you were primarily were by mid '08? A. Not at all. Q. You were in the office?
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2 3 4 5 6 7 8 9	FENNER Q. May of '07. By May of '08, you had been at the Post about a year, correct? A. Correct. Q. And what were your what were your reporting duties by May of 2008? In other words, were you in the street most of the time or were you in the office most of the time? A. I was hired as an enterprise reporter which required me to pitch stories,	2 3 4 5 6 7 8 9 10	FENNER Q. What were you what does the term "street reporter" mean to you? A. You mean someone who is not in the office? Q. Yes. Is that what you were primarily were by mid '08? A. Not at all. Q. You were in the office?
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1	FENNER	1	FENNER
2	Q. Was it 10 percent, 20 percent?	2	A. I did several. I did many. I
3	MR. THOMPSON: Objection.	3	wrote stories about an identity theft story.
4	A. I think it was a mix. It might	4	It was a military burial it was a it
5	have been 33 percent on all I was it	5	was an identity theft story.
6	might have been a third on each one. I don't	6	Q. Got it. Identity theft in a
7	know.	7	military burial?
8	Q. A third in the office, a third on	8	A. Right.
9	the street in New York, and a third on the	9	Q. What else?
10	road traveling? Is that what you mean by 33	10	A. It was a man who had been convicted
11	percent each?	11	
12	A. I don't have an exact mathematical	12	of murder in Connecticut who had mistakenly
13		13	assumed his neighbor had molested his child
	breakdown to give you.		and I was able to get this man to send a
14	Q. I understand that. By May of 2008,	14	handwritten, handwritten letter about why he
15	how much of your work was what percentage	15	did this and what went wrong.
16	of your work was the work of a street	16	Q. A letter to whom?
17	reporter?	17	A. It was addressed to me at the New
18	A. I couldn't tell you that number.	18	York Post.
19	Q. How much of your work was producing	19	Q. Can you define an enterprise story?
20	enterprise stories?	20	A. An enterprise story is an story
21	A. Like I said, it was a mix. And I	21	that's off the radar, a story that is
22	can't give you a mathematical breakdown.	22	original reporting and of interest to the
23	Q. What enterprise stories did you	23	public.
24	produce during the first year of your	24	Q. Does it involve more research and
25	employment at the Post?	25	more reporting than a nonenterprise story?
	Page 80		Page 81
1	FENNER	1	FENNER
2	A. It can.	2	been about 86. So I think that's what you
3	Q. But it is original, off the radar	3	might be referring to.
4	and it is of interest to the public?	4	Q. So the answer is yes, you did?
5	A. Those are some of the elements.	5	A. Can you repeat the question?
6	Q. Can you think of any other	6	Q. Did you ever decline a request to
7	enterprise story that you wrote in your first	7	stay late to cover a breaking news story?
8	year at the Post?	8	A. I had child care issues. I had
9	A. The Columbia expansion stories, the	9	to I called my editors to see if they
10	Wendy Williams story. And there were others.	10	could send someone to relieve me. So the
ł		3	
11	Q. Can you tell me what the others	11	answer is I never declined a request to stay
12	were?	12	late, no. The answer is no.
L3	A. If I had a list, I could refresh my	13	Q. The answer is
14	recollection.	14	A. I didn't decline a request. I
15	Q. Did you ever decline a request to	15	called in to get relief on a story. I never
16	stay late to cover a breaking news story?	16	declined a request to stay late on a story.
17	A. Did I ever decline a request to	17	Q. And what happened after you made
18	stay late?	18	that call?
19	Q. Yes, to cover a breaking news	19	A. The editors looked to see if there
20	story?	20	were any other reporters who were starting
21	A. I think you're referring to a story	21	their shifts and who could relieve me.
22	where I had child care issues and I had to	22	Q. Did they find any?
23	pick up my daughter from my mother's house	23	A. I can't recall in this particular
24	and my wife was out of town.	24	one. I would assume that happened.
1			